

SUMMARY REPORT DIGEST-
COMPLAINT REGISTER INVESTIGATION NO.:
CHICAGO POLICE DEPARTMENT

279006

DATE OF REPORT (DAY-MO.-YEAR)

22 May 2002

To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED cases where the Disciplinary Recommendation does not exceed FIVE (5) DAYS SUSPENSION.

SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.
SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

TO: SUPERINTENDENT OF POLICE

ATTENTION [X] ADMINISTRATOR IN CHARGE, OFFICE OF PROFESSIONAL STANDARDS
[] ASSISTANT DEPUTY SUPERINTENDENT, INTERNAL AFFAIRS DIVISION

| | | | | | | | | | | | |
|--|---|-------------------------|-----------------------------------|---|--|-------------------------------|----------------------------|----------------------------|-----------------------------|------------------------|------------------|
| FROM - INVESTIGATOR'S NAME Kristi Lyons | | | | RANK Inv. | STAR NO. 232 | SOCIAL SEC. NO. [REDACTED] | EMPLOYEE NO. [REDACTED] | UNIT ASSIGN. 113 | | | |
| ADDRESS OF INCIDENT 34 [REDACTED] South Halsted | | | | DATE OF INCIDENT - TIME 02 Jan 02 - 2000 | | BEAT OF INCIDENT 906 | | LOCATION CODE* 017 | | | |
| ACCUSED | NAME 1. Aaron Cunningham | | | RANK PO | STAR NO. 15522 | SOCIAL SEC. NO. [REDACTED] | | EMPLOYEE NO. [REDACTED] | UNIT ASSIGN. 009 | | |
| | 2 James Jakstavich | | | PO | 16305 | [REDACTED] | | [REDACTED] | 009 | | |
| | SEX/RACE 1. M/W | D.O.B. [REDACTED] 67 | DATE OF APPOINTMENT 29 June 98 | | DUTY STATUS (TIME OF INCIDENT) [x] ON DUTY [] OFF DUTY | | [x] SWORN [] CIVILIAN | | PHYS. COND. CODE 01 | | |
| | 2 M/W | [REDACTED] 5 | 02 Aug 99 | | [x] ON DUTY [] OFF DUTY | | [x] SWORN [] CIVILIAN | | 01 | | |
| | IF APPLICABLE - DATE ARRESTED/INDICATED 1. | | | CHARGES | | COURT BRANCH | | DISPOSITION & DATE | | | |
| | 2 | | | | | | | | | | |
| COMPLAINANTS | NAME [REDACTED] | | | ADDRESS** [REDACTED] | | CITY STATE [REDACTED] | | SEX/RACE M/W | D.O.B./AGE [REDACTED] 52 | PHYS. COND. CODE 03 | |
| | | | | | | | | | | | |
| VICTIMS | NAME | | | ADDRESS** | | CITY STATE | | TELEPHONE | SEX/RACE | D.O.B./AGE | PHYS. COND. CODE |
| | | | | | | | | | | | |
| WITNESSES | NAME | | | ADDRESS** | | CITY STATE | | TELEPHONE | SEX/RACE | D.O.B./AGE | PHYS. COND. CODE |
| | | | | | | | | | | | |

[x] SEE ATTACHED SHEET FOR ADDITIONAL ACCUSED, COMPLAINANTS, VICTIMS, WITNESSES.

| | |
|-------------|------------|
| ALLEGATIONS | SEE REPORT |
| | |

I.A.D. LOCATION CODES*

- | | |
|----------------------------------|--|
| 01 Food Sales/Restaurant | 11 Public Transportation Veh./Facility |
| 02 Tavern/Liquor Store | 12 Park District Property |
| 03 Other Business Establishment | 13 Airport |
| 04 Police Building | 14 Public Property - Other |
| 05 Lockup Facility | 15 Other Private Premise |
| 06 Police Maintenance Facility | 16 Expressway/Interstate System |
| 07 CPD Automotive Pound Facility | 17 Public Way - Other |
| 08 Other Police Property | 18 Waterway, Incl. Park District |
| 09 Police Communications System | 19 Private Residence |
| 10 Court Room | |

I.A.D. PHYSICAL CONDITION CODES

- | |
|---|
| 01 No Visible Injury - Apparently Normal |
| 02 No Visible Injury - Under Influence |
| 03 Injured, Not Hospitalized |
| 04 Injured, Not Hospitalized - Under Influence |
| 05 Injured, Hospitalized |
| 06 Injured, Hospitalized - Under Influence |
| 07 Injured, Refused Medical Aid |
| 08 Injured, Refused Medical Aid - Under Influence |
| 09 Deceased |
| 10 Deceased - Under Influence |

** IF CPD MEMBER, LIST RANK, STAR, SOCIAL SECURITY, EMPLOYEE NOS. IN ADDRESS BOX, PAX/BELL IN TELEPHONE BOX.

SUMMARY

Briefly summarize the investigation describing your efforts to prove or disprove the allegation(s). Indicate whether witnesses or evidence support or do not support the allegations(s).
In sustained cases ONLY, copies of the accused member's Summary of Previous Disciplinary Actions and Record of Previous Complimentary History will be included as attachments.

See Report

ATTACHMENTS

INVESTIGATIVE REPORTS-
SUPPORTING ALLEGATION
LIST ATTACHMENT NUMBERS:

10

INVESTIGATIVE REPORTS-
SUPPORTING ACCUSED MEMBER(S)
LIST ATTACHMENT NUMBERS:

2/

PHYSICAL EVIDENCE
LIST ATTACHMENT NUMBERS:

18-18E
19-19A

TOTAL NUMBER OF ATTACHMENTS
SUBMITTED WITH THIS FILE:

34

FINDINGS-RECOMMENDATIONS

Summarize the findings and recommendations. Rule violations will be cited by number only. One overall recommendation for Disciplinary Action will be made by the investigator. The recommendation will be for ALL sustained findings; recommendations will NOT be made for each sustained allegation. Example: 1. Violation noted, no disciplinary action warranted. 2. That the accused member be reprimanded. 3. That the accused member be suspended for days (not to exceed 5 days).

Accused Officer #1 Aaron Cunningham #15522
Allegation #1 Unfounded

Accused Officer #2 James Jakstavich #16305
Allegation #1 Unfounded

Approved: (

O.P.S. Supervisor Michael Duffy #105

DATE INITIATED

(DATE COMPLAINT WAS
RECEIVED FOR INVESTIGATION) 19 Mar 02

DATE COMPLETED

(DATE OF THIS
REPORT) 22 May 02

ELAPSED TIME

(TOTAL TIME,
EXPRESSED IN DAYS) 62 days

Investigator will initiate the Command Channel Review
for by completing the Investigator's Section.

INVESTIGATOR'S SIGNATURE

Allegations:

The complainant, [REDACTED] contacted the Office of Professional Standards via telephone on 14 March 2002 and registered this complaint with Intake Aide Butts, Employee Number [REDACTED].

The complainant, [REDACTED] alleges that on 02 January 2002 at approximately 1750 hours, at the location of 34 [REDACTED] South Halsted and during the course of his arrest, **Officers Aaron Cunningham #15522 and James Jakstavich #16305:**

- 1) punched and kicked him about the body and picked him up off the ground by the hair.

Investigation (con't)

In his Watch Commander's Summary Report, Captain John Lorenz #378 of Unit 378, stated that on 02 January 2002 at 1750 hours, Officers Cunningham #15522 and Jakstavich #16305 were making a valid arrest when a male subject now known to be complainant, [REDACTED] resisted their attempts. [REDACTED] stated that he would kill the officers. Captain Lorenz conducted an interview with [REDACTED] who stated that he was protecting his [REDACTED] engaged in a struggle with the police and all fell to the ground. Captain Lorenz interviewed witness, [REDACTED] who stated that [REDACTED] told the officers that he [REDACTED] would kill the officers if they touched [REDACTED] [REDACTED] further stated that [REDACTED] resisted arrest. Captain Lorenz also interviewed witness, [REDACTED] who stated that the police were attempting to place [REDACTED] in the squad car, when [REDACTED] began to resist arrest.

In an in-person statement conducted on 14 March 2002, by Inv. Wilbert Neal #290, complainant, [REDACTED] stated that on 02 January 2002, he and [REDACTED] [REDACTED] were standing in front of [REDACTED] for several minutes looking at the merchandise when two male white officers now known to be Officers Cunningham and Jakstavich arrived. The officer told [REDACTED] and [REDACTED] to place their hands on the window, to which they complied. One of the officers began to search [REDACTED] at which time [REDACTED] took his hands off the window and asked if a female officer could search [REDACTED]. The officers then began punching [REDACTED] about the face and body at which time he fell to the ground. While [REDACTED] was on the ground, the officers began kicking him about the body. [REDACTED] stated that he at no time during this incident resisted arrest. [REDACTED] stated he had just purchased a bottle of wine and had a "sip" prior to the officers' arrival. [REDACTED] was then transported to [REDACTED] where he was treated for broken ribs, an broken nose and swelling to his eyes.

Attempts were made to contact witness, [REDACTED] via personal visit (17 April 2002) and via telephone (03 May 2002/13 May 2002/16 May 2002). All attempts were met with negative results.

Attempts were made to contact witness, [REDACTED] via personal visit (02 April 2002) and via telephone (03 May 2002/13 May 2002/16 May 2002). All attempts were met with negative results.

A canvass conducted in the area was met with negative results.

The arrest report of [REDACTED] states the Officers Cunningham and Jakstavich were on routine patrol when they observed [REDACTED] drinking Wild Wild Irish

Investigation (con't)

Rose from a bottle with [REDACTED]. The officers conducted a field interview at which time [REDACTED] were arrested for drinking on the public way. [REDACTED] became physically aggressive and stated " I will fucking kill you" and raised closed fists at the officers. [REDACTED] was placed into custody using necessary force to effect the arrest as [REDACTED] began to swing his arms and elbows. The arrest report indicates that [REDACTED] resisted arrest. The lockup screening record indicates that [REDACTED] was taken to the hospital prior to admittance in the lockup for treatment of his injuries. [REDACTED] appeared to be under the influence of alcohol and/or drugs.

The arrest report of [REDACTED] states in essence the same information as that of [REDACTED]. The lockup screening record indicates that [REDACTED] appeared to be under the influence of alcohol and/or drugs.

The Chicago Fire Department Pre-Hospital Care Report for [REDACTED] states that [REDACTED] chief complaint was epistaxis. [REDACTED] was awake and orientated X3 with a complaint of face pain after falling down on the street "... obvious ETOH.. Epistaxis."

The medical records of [REDACTED] from [REDACTED] indicate [REDACTED] was received in the Emergency Room of [REDACTED] at 1954 hours. [REDACTED] related to Emergency Room personnel that he was punched in the nose and kicked in the ribs by the police but did not lose consciousness. [REDACTED] was under the influence of alcohol and informed medical personnel that he consumed "a couple bottles of wine today." X-Rays were taken of [REDACTED] nose, chest and ribs. The X-Ray of [REDACTED] ribs was suggestive of a non-displaced fracture of the posterior left ninth rib, but was inconclusive. [REDACTED] was diagnosed with a small non-displaced fracture of the distal aspect of the nasal bone, instructed to place ice on his face and take ibuprofen as needed for the pain.

The Evidence Technician Photographs of [REDACTED] indicate abrasions to the [REDACTED] facial area. The Evidence Technician Photographs of Officer Cunningham depict what appears to be dirt on the knee and elbow areas of his uniform as well as hole in his sweater.

Investigation (con't)

Accused Officer Cunningham submitted a report relevant to this incident. Officer Cunningham reiterated the account of the arrest of [REDACTED] as contained in the related Department reports. Officer Cunningham stated that he attempted to place [REDACTED] who was an active resister under arrest using minimal force. [REDACTED] stated "I will fucking kill you" and began "swinging his arms and elbows" at Officer Cunningham. Officer Cunningham attempted to gain control of [REDACTED] arm and both [REDACTED] and Officer Cunningham fell to the ground. Both [REDACTED] and Officer Cunningham sustained minor injuries. Officer Cunningham observed [REDACTED] to have an injury on his right cheek while he himself sustained redness and scratches to his knee attributed the injuries to the fall to the ground. [REDACTED] requested an ambulance and was transported for medical attention. Officer Cunningham described [REDACTED] to be extremely intoxicated at the time of his arrest with the strong smell of alcohol and urine emitting from his person. [REDACTED] exhibited bloodshot eyes and his speech was slurred. Officer Cunningham further described [REDACTED] to be physically and verbally aggressive to himself and Officer Jakstavich from their initial contact until [REDACTED] was placed into the ambulance. Officer Cunningham denied the allegation made against him.

Accused Officer Jakstavich submitted a report relative to this investigation. Officer Jakstavich reiterated the account of the incident contained in the related Departmental Reports and corroborated the account of Officer Cunningham. Officer Jakstavich denied the allegation made against him.

Conclusion

The Reporting Investigator recommends that Allegation #1 against both Officers Cunningham #15522 and Jakstavich #16305 be UNFOUNDED. This investigation revealed that the incident did not occur as reported by [REDACTED] is not credible as the account of the incident he provided to the Office of Professional Standards is in direct contradiction to the account he provided to Captain Lorenz on the date of this incident as well as the related Departmental Reports. [REDACTED] provides an account that is in total contradiction. In his interview with Captain Lorenz, [REDACTED] admits that he resisted arrest, yet In his statement at the Office of Professional Standards, [REDACTED] stated that he did not resist arrest. In addition, in his Office of Professional Standards statement, [REDACTED] stated he was not intoxicated as he only had a "sip of wine" while the medical records from [REDACTED] stated that [REDACTED] informed them on the date of this incident that he consumed two (2) bottles of wine. The Evidence Technician photographs of [REDACTED] do not depict any injuries which are indicative that [REDACTED] was physically abused in the manner that he alleged. The injuries that are depicted (abrasions to his facial area) are corroborative with that of one that was resisting arrest.
